

**COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
FILE NO. BFA-24881-037
PERMIT NO. 719-0047
NONCOMPLIANCE NO. 411153
CESSATION ORDER NO. 041385**

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS.

SECRETARY'S ORDER

ST. CLAIR HANOVER COAL CO.;
TRAVELERS CASUALTY SURETY COMPANY

DEFENDANTS

This matter is before the Secretary upon the Report and Recommendation of the Hearing Officer, Hon. Janet C. Thompson. After considering said Report and Recommendation, and any Exceptions and Responses, and being sufficiently advised, **IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:**

1. The Hearing Officer's Report and Recommended Order filed in the record on [6/20/01], 2001, is **ADOPTED** and incorporated by reference and made a part hereof as if set forth verbatim in this Order.

2. The Defendants, St. Clair Hanover Coal Co. and Travelers Casualty Surety Company, have **WAIVED** their rights to a formal administrative hearing in this matter.

3. Noncompliance and Order for Remedial Measures No. 411153 and Order for Cessation and Immediate Compliance No. 041385 were **AFFIRMED** in a final order entered in File No. PAC-24881 on June 28, 2000.

4. The Defendant, St. Clair Hanover Coal Co., is adjudged to be in violation of the conditions of Permit No. 719-0047, and of the performance standards cited in the Noncompliance and Cessation Order.

5. The violation of 405 KAR 16:200 remains unabated.

6. The Defendant, St. Clair Hanover Coal Co., is hereby **ORDERED** to abate the cited violation and to reclaim the entire permit to permanent program standards and to otherwise comply with the provisions of KRS Chapter 350 and 405 KAR Chapters 7 through 24.

7. Permit No. 719-0047 is hereby **REVOKED**.

8. The Defendant, St. Clair Hanover Coal Co., is declared ineligible to receive another permit, begin another operation or have suspended permits or operations reinstated until such time as it has complied with the requirements of KRS Chapter 350 and the regulations promulgated pursuant thereto.

9. The Performance Bond, Surety Bond No. 64S100055311 issued by Travelers Casualty Surety Company, is hereby **FORFEITED** to the Cabinet.

10. This is a final Order.

SO ORDERED this the ____ day of _____, 2001.

//S// [7/23/01]
JAMES E. BICKFORD, SECRETARY
NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET

APPEAL RIGHTS

In accordance with the provisions of KRS 350.0305 and KRS 350.032, any person or party aggrieved by a Final Order of the Secretary resulting from a hearing may obtain a review of the Final Order by filing in Circuit Court a Petition for Review. Such Petition must be filed within thirty (30) days after the entry or rendition of the Final Order, and a copy of the Petition must be served upon the Cabinet.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing SECRETARY'S ORDER was on this the ____ day of _____, 2001 mailed, postage pre-paid, to the following:

St. Clair Hanover Coal Co.
P.O. Box B
Roslyn, NY 11576

Travelers Casualty Surety Company
One Tower Square
Hartford, CT 06183

Fred E. Schmid
C/O St. Clair Hanover Coal Co.
White Oak, KY 41474

Michael Stafford
Travelers Property Casualty
4400 North Point Parkway
Alpharetta, GA 30022

and hand-delivered to:

Tamara J. Patrick
Natural Resources and
Environmental Protection Cabinet
Office of Legal Services
Fifth Floor, Capital Plaza Tower
Frankfort, KY 40601

DOCKET COORDINATOR

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**COMMONWEALTH OF KENTUCKY
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FILE NO. BFA-24881-037
PERMIT NO. 719-0047
NONCOMPLIANCE NO. 411153
CESSATION ORDER NO. 041385**

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS.

**HEARING OFFICER'S REPORT
AND RECOMMENDED ORDER**

ST. CLAIR HANOVER COAL CO.;
TRAVELERS CASUALTY SURETY COMPANY

DEFENDANTS

This matter is before the undersigned Hearing Officer following St. Clair Hanover Coal Co.'s failure to appear for either the initial prehearing conference on December 21, 2000, or a show cause hearing on April 25, 2001. In the Order directing St. Clair Hanover to appear for the show cause hearing, the Hearing Officer specifically advised

that a failure to appear at said hearing would result in this report recommending to the Secretary of the Cabinet that a final Order in conformity with the relief requested by the Cabinet in its administrative complaint be entered.

The Hearing Officer further notes that the Defendant, Travelers Casualty Surety Company notified the Office of Administrative Hearings, by letter dated November 28, 2000 from T. Michael Stafford, that Travelers had no objection to the entry of a final Order based on the issues raised in the Cabinet's Administrative Complaint, and that Travelers would not be making any further appearance in this action. Travelers did not make any appearance, in person or by counsel, at either the initial prehearing conference on December 21, 2000 or at the status conference held March 26, 2001.

Therefore, based on St. Clair Hanover Coal Co.'s and Traveler's Casualty Surety Company's failure to appear, and pursuant to the authority of 405 KAR 7:092, Section 5(5), the Hearing Officer recommends that the Secretary enter the attached proposed final Order deeming St. Clair Hanover Coal Co. and Travelers Casualty Surety Company to have waived their rights to an administrative hearing, and granting the relief requested in the Cabinet's Administrative Complaint.

SO RECOMMENDED this the _____ day of _____, 2001.

 //S// [6/20/01]
JANET C. THOMPSON, HEARING OFFICER
Office of Administrative Hearings
35-36 Fountain Place
Frankfort, KY 40601

EXCEPTION RIGHTS

Pursuant to KRS 350.0301, any party may file exceptions to this Report and Recommended Order within fourteen (14) days of service of this Report. A party may file a Response to any exceptions within twenty-one (21) days of service of this Report. The Secretary will then consider this Report, any Exceptions, any Responses and the Recommended Order, and decide this case.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing HEARING OFFICER'S REPORT AND RECOMMENDED ORDER was on this the _____ day of _____, 2001 mailed, postage pre-paid, to the following:

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